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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,350	09/25/2003	Klaus Stapel	71027-006	7125

27305 7590 03/23/2005

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EXAMINER

PICKARD, ALISON K

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,350

Applicant(s)

STAPEL ET AL.

Examiner

Alison K. Pickard

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 9-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 9-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 is unclear. It appears from the wording of the claim (at line 4, i.e. "in the areas") that the limiting elements are being claimed at the openings. However, it appears from the specification and the figures that limiting elements 5 are provided at an outer edge of the spacer layer. Are the limiting elements in the claims different from those identified as "5" in the specification?

3. Claim 9, line 2, "umber" should be --number--.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9-12, 17-20, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiegert (6,676,134) in view of Ito (5,683,092).

Wiegert discloses a multi-layered gasket 10 with a spacing layer 26 having openings 12-16 with a ring 24 and limiting elements 20. The spacing layer is in functional contact with

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functional layers 30 and 32. The layers 30 and 32 have several distances from the ring and limiting elements. The layers 30 and 32 have half sumps (beads) 34 and 36. Wiegert does not disclose the ring 24 is iron. Ito teaches a gasket with a ring at the openings. Ito teaches art equivalent materials for the ring, such as iron or steel. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to make the wire ring of iron as such is an art equivalent material as taught by Ito.

6. Claims 13-16 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiegert in view of Ito as applied to claims 9-12 above, and further in view of Miura (5,087,058).

Wiegert does not disclose two functional layers on each side of the spacing layer. Miura teaches a gasket with functional layers and a spacing layer. Miura teaches art equivalent configurations for the layering, such as one or two functional layers on each side of the spacer (see Fig. 3 and 8). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to use two functional layers on each side of the spacer as such is an art equivalent multi-layered gasket configuration as taught by Miura.

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wiegert in view of Ito as applied to claim 9 above, and further in view of Herrington (4,531,750).

Wiegert does not disclose that the opening edging is made of two sheet metal elements. Herrington teaches a gasket with an edging around an opening. The edging has two sheet metal elements 6 and 7. Herrington teaches the use of two elements produces higher sealing capability for a higher load. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the edging of Wiegert with two elements to produce higher sealing capability as taught by Herrington.


Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alison K. Pickard whose telephone number is 703-305-0882. The examiner can normally be reached on M-F (10-7:30), with alternate Friday's off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 703-308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Alison K. Pickard
Primary Examiner
Art Unit 3676

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